

ADMINISTRATIVE RECORD



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION - 8, MONTANA OFFICE
FEDERAL BUILDING, 301 S. PARK, DRAWER 10096
HELENA, MONTANA 59626-0096


1890194 - R8 SDMS

Ref: 8ENF-L/MO

May 17, 2000

Barry C. Duff, Project Manager
ARCO/AERL/BP Amoco
307 East Park Street, Suite 400
Anaconda, Montana 59711

RE: ARAR Addendum - Clark Fork River Operable Unit - National Park Organic Act of 1916
and the enabling legislation for the Grant Kohrs Ranch National Historic Site

Dear Mr. Duff:

In the January 2000 ARAR identification package for the Clark Fork River Operable Unit (CFR OU) RI/FS, EPA identified the National Park Organic Act and the enabling legislation for the Grant Kohrs Ranch National Historic Site as potential location specific ARARs for the CFR OU remedy selection, and stated that additional clarification on these ARARs would be issued at a later date. These ARARs are present at the CFR OU because contamination within the OU exists within and upstream of an important National Historic Site - the Grant-Kohrs Ranch (GKRNHS) - administered by the U.S. National Park Service (NPS). The attached addendum provides the additional clarification regarding this ARAR, and must be used by ARCO as it prepares the draft Feasibility Study. Any alternative which addresses contamination on or upstream of the GKRNHS must examine this ARAR and compliance with this ARAR, as well as all other ARARs, carefully.

In identifying this ARAR, EPA has carefully considered the issues and concerns raised in ARCO/AERL letters to EPA on this topic, in close consultation with the U.S. Department of the Interior and the NPS. Many of the issues and concerns raised by ARCO/AERL are addressed in the attached addendum. If ARCO has continued concerns, please submit comments on the addendum, either now or at the time of the proposed plan public comment period, which will be considered and addressed in accordance with the NCP.

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Thank you for your continued efforts on the Feasibility Study.

Sincerely,


Scott Brown
Remedial Project Manager

Attachment

cc: Darlene Koontz, Superintendent - GKRNHs

Phil Tourangeau, GKRNHs

Debra Hecox, DOI-RSO

Shawn Mulligan, NPS

Henry Elsen, 8ENF-L/MO

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Bob Lawrence, GDS - attorney for ARCO

Robin Bullock, ARCO/AERL

Ron Hansen, Powell County

Jim Kuipers, CFRTAC

ADDENDUM

CLARK FORK RIVER OPERABLE UNIT ARAR IDENTIFICATION ADDRESSING THE NATIONAL PARK ORGANIC ACT OF 1916 AND GRANT KOHRS RANCH NATIONAL HISTORIC SITE ENABLING LEGISLATION 5/17/2000

The U.S. Environmental Protection Agency (EPA) and the National Park Service (NPS or Park Service) have worked closely together to evaluate the application of the National Park Organic Act of 1916, as amended, 16 U.S.C. Section 1 et seq. (1976) (the Organic Act) and the enabling legislation for the Grant Kohrs Ranch National Historic Site, Pub. L. 92-406, 86 Stat. 7632 (1972) (Grant Kohrs Act) as these requirements relate to site response activities for the Clark Fork River Operable Unit of the Milltown Reservoir Sediments Superfund Site. EPA concludes that portions of the Organic Act, and the Grant-Kohrs Act constitute a relevant and appropriate requirement (RAR) for the Clark Fork River operable unit.

EPA recognizes that the Organic Act and Grant-Kohrs Act confer upon units of the National Park System (certainly the Grant-Kohrs Ranch National Historic Site) unique qualities deserving of special attention for any federal actions which may affect a national park site. EPA also recognizes that hazardous substances within the boundaries of the Grant-Kohrs Ranch have impaired terrestrial and aquatic components of its ecosystem. Hazardous substances arising from upstream, outside the boundaries of the Grant-Kohrs Ranch, also have impaired the terrestrial and aquatic components of its ecosystem. Both tangible and intangible resources are impaired. Tangible resources include ecological, geological, hydrological and cultural resources. Intangible resources include scenic and historic values. In addition, the potential for continued impairment remains high. The NPS concludes that the persistence of this impairment and the threat of continued impairment in the future adversely affect the ability of the NPS to fulfill its statutory, regulatory, and policy mandates for the Grant-Kohrs Ranch.

EPA concludes that the Organic Act, §§ 1 and 1a-1 and the Grant-Kohrs Act contain standards that are "relevant and appropriate" pursuant to the identification criteria in the National Contingency Plan (NCP) at 40 C.F.R. § 300.400(g)(2). Specifically, the Organic Act, §1 directs that sites such as the Grant-Kohrs Ranch should be managed "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." The Organic Act § 1a-1 also emphasizes the importance of the directive to leave park lands "unimpaired" by requiring that the areas of the National Park System such as the Ranch "must be consistent with and founded in the purpose" established in § 1 of the Organic Act "to the common benefit of all the people in the United States." The Grant-Kohrs Act further delineates the "unimpaired" standard in § 1 by directing the Secretary of the Interior to establish the Grant-Kohrs Ranch "to provide an understanding of the frontier cattle era of the Nation's history, to preserve the Grant-Kohrs Ranch, and to interpret the nationally significant values thereof for the benefit and inspiration of present and future generations."

In general, compliance with the RAR standards in the Organic and Grant-Kohrs Acts translates into the following:

1. Reestablish the historic landscape conditions in the Riparian/Woodland Cultural Landscape area which were present during the frontier cattle era. This statement does not necessarily mean the complete elimination of contamination from the Grant Kohrs Ranch, but does mean that an objective range of alternatives should be weighed against their ability to support the natural reestablishment of self reproducing and sustaining native riparian vegetation communities of the types that would be present except for the effects of hazardous substances.
2. Assure the natural reestablishment of diverse native riparian vegetative communities and other tangible and intangible resources. Tangible resources include biological, geological, and cultural resources such as historic structures, landscapes, and artifacts. Intangible resources include scenic vistas, solitude, and visitor appreciation of sight themes, historic setting and their contexts.
3. Reduce contamination in the riparian areas to ensure that hazards to livestock, vegetation, and wildlife, as well as humans who visit the site or work there, do not present unacceptable risks.
4. Reduce to acceptable levels of risk the potential for future releases of hazardous substances from upstream sources, and likewise from the Grant-Kohrs Ranch property to areas downstream.
5. Assure protection of the flood plain and historically irrigated lands within the boundaries of the park unit.

EPA's conclusion that the cited sections of the Organic Act and Grant-Kohrs Act are "relevant and appropriate" requirements is unique to the rare situation in which EPA is the lead agency for remedy selection and implementation at a site containing NPS property. In situations in which NPS is the lead agency at a CERCLA site containing NPS property, however, standards in the Organic Act may be "applicable" rather than "relevant and appropriate," as those terms are defined at 40 C.F.R. §300.5.

Certain NPS regulations governing activities in the Grant-Kohrs Ranch issued pursuant to the Organic Act may contain standards that are applicable, or relevant and appropriate to activities at the CERCLA site on the Ranch. These will be identified with more particularity following remedy selection and remedial design.

While the above discussion addresses ARAR-related issues, the NCP also requires that remedies be selected based upon nine evaluation criteria. See 40 C.F.R. § 400.430(f). Consistent with the NCP, it is critical that the selected remedy is both protective of human health and the environment and is compliant with ARARs in the near and long-term. Therefore, it is important

that measures are taken to ensure the long-term reliability of the remedy and that NPS management options and activities for Grant-Kohrs Ranch National Historic Site are not unduly constrained or restricted by these measures, or the remedy itself, consistent with the NCP criteria, either at present or in the future. The National Park Service is the critical and responsible Federal Land Manager in this effort, and its desire for a remedy that will meet all ARAR's including the Organic Act and enabling legislation as described here, minimize the need for future waste management, and allow for NPS management activities consistent with the Organic Act and enabling legislation is an important consideration in the selection of a remedy for the Grant-Kohrs Ranch portion of the Clark Fork River operable unit.